

Senate Engrossed House Bill

**FILED**  
**KEN BENNETT**  
**SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Fiftieth Legislature  
First Regular Session  
2011

CHAPTER 220

## **HOUSE BILL 2705**

AN ACT

AMENDING SECTIONS 44-1303, 44-1304.01 AND 49-104, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 49-706; AMENDING SECTIONS 49-747, 49-761, 49-762.03, 49-762.05, 49-837, 49-855, 49-881, 49-922 AND 49-931, ARIZONA REVISED STATUTES; RELATING TO THE ENVIRONMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 44-1303, Arizona Revised Statutes, is amended to  
3 read:

4 44-1303. Waste tire collection sites; registration

5 A. An owner or operator of a waste tire collection site, within six  
6 months of the effective date of this article AFTER SEPTEMBER 27, 1990, shall  
7 register with the department of environmental quality and provide the  
8 department with information concerning the site's location and size and the  
9 approximate number of waste tires which THAT are stored at the site and shall  
10 initiate steps to comply with this article.

11 B. ANY WASTE TIRE COLLECTION SITE THAT IS ESTABLISHED AFTER THE  
12 EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION SHALL REGISTER WITH THE  
13 DEPARTMENT BEFORE BEGINNING OPERATION AND SHALL PAY A REGISTRATION FEE.  
14 AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE DIRECTOR  
15 SHALL ESTABLISH BY RULE A REGISTRATION FEE, INCLUDING A MAXIMUM FEE. AS PART  
16 OF THE RULE MAKING PROCESS, THERE MUST BE PUBLIC NOTICE AND COMMENT AND A  
17 REVIEW OF THE RULE BY THE JOINT LEGISLATIVE BUDGET COMMITTEE. AFTER  
18 SEPTEMBER 30, 2013, THE DIRECTOR SHALL NOT INCREASE THAT FEE BY RULE WITHOUT  
19 SPECIFIC STATUTORY AUTHORITY FOR THE INCREASE. REGISTRATION FEES SHALL BE  
20 DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE SOLID WASTE FEE  
21 FUND ESTABLISHED BY SECTION 49-881.

22 Sec. 2. Section 44-1304.01, Arizona Revised Statutes, is amended to  
23 read:

24 44-1304.01. Storage, disposal, discard or abandonment of used  
25 motor vehicle tires; registration fees;  
26 violation; classification; exception

27 A. It is unlawful to store one hundred or more used motor vehicle  
28 tires outdoors as follows:

29 1. In any fashion that exceeds twenty feet in height.

30 2. In a pile that is more than one hundred fifty feet from a twenty  
31 foot wide access route that allows fire control apparatus to approach the  
32 pile. Access routes between and around tire piles shall be at least twenty  
33 feet wide and maintained free of accumulations of rubbish, equipment or other  
34 materials. Access routes shall be spaced so that a maximum grid system unit  
35 of fifty feet by one hundred fifty feet is maintained.

36 3. Within three feet of any property line.

37 4. In any fashion that exceeds six feet in height if the used tires  
38 are stored between three and ten feet of any property line.

39 5. Within fifty feet of any area in which smoking of tobacco or any  
40 other substance by persons is permitted. "No smoking" signs shall be posted  
41 in suitable and conspicuous locations.

42 6. At any area in which the used motor vehicle tires are stored and in  
43 which electrical wiring, fixtures or appliances do not comply with the  
44 national electrical code.

1        7. Without placing class "2A-10BC" type fire extinguishers at well  
2 marked points throughout the storage area so that the travel distance from  
3 any point in the storage area to a fire extinguisher is not more than  
4 seventy-five feet.

5        8. Without prior registration of the site with the department of  
6 environmental quality. The registration shall be on a form approved by the  
7 department and shall include the site's location, the NAME OF THE owner of  
8 the property, the NAME OF THE owner or operator of the business storing the  
9 waste tires, if applicable, and the type and approximate quantity of waste  
10 tires stored at the site. For any waste tire collection site that is  
11 operating on ~~the effective date of this amendment to this section~~ SEPTEMBER  
12 26, 2008, the owner of the property shall register pursuant to this paragraph  
13 ~~within sixty days after the effective date of this amendment to this section~~  
14 ON OR BEFORE NOVEMBER 25, 2008. FOR ANY PERSON WHO STORES ONE HUNDRED OR  
15 MORE USED MOTOR VEHICLE TIRES OUTDOORS AFTER THE EFFECTIVE DATE OF THIS  
16 AMENDMENT TO THIS SECTION, THE OPERATOR SHALL PAY A REGISTRATION FEE. AFTER  
17 THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE DEPARTMENT SHALL  
18 ESTABLISH BY RULE A REGISTRATION FEE, INCLUDING A MAXIMUM FEE. AS PART OF  
19 THE RULE MAKING PROCESS, THERE MUST BE PUBLIC NOTICE AND COMMENT AND A REVIEW  
20 OF THE RULE BY THE JOINT LEGISLATIVE BUDGET COMMITTEE. AFTER SEPTEMBER 30,  
21 2013, THE DEPARTMENT SHALL NOT INCREASE THAT FEE BY RULE WITHOUT SPECIFIC  
22 STATUTORY AUTHORITY FOR THE INCREASE. REGISTRATION FEES SHALL BE DEPOSITED,  
23 PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE SOLID WASTE FEE FUND  
24 ESTABLISHED BY SECTION 49-881.

25        B. A person who knowingly discards or abandons five hundred or more  
26 motor vehicle tires, discards or abandons any motor vehicle tires for  
27 commercial purposes except as provided in section 44-1304, or otherwise  
28 knowingly performs any act prohibited by subsection A of this section  
29 involving five hundred or more motor vehicle tires is guilty of a class 5  
30 felony.

31        C. The attorney general may enforce this section.

32        D. For the purposes of this section, used motor vehicle tires ~~does~~ DO  
33 not include tires that have been recapped and have not yet been put back into  
34 service.

35        Sec. 3. Section 49-104, Arizona Revised Statutes, is amended to read:  
36 49-104. Powers and duties of the department and director

37        A. The department shall:

38        1. Formulate policies, plans and programs to implement this title to  
39 protect the environment.

40        2. Stimulate and encourage all local, state, regional and federal  
41 governmental agencies and all private persons and enterprises that have  
42 similar and related objectives and purposes, cooperate with those agencies,  
43 persons and enterprises and correlate department plans, programs and  
44 operations with those of the agencies, persons and enterprises.

1           3. Conduct research on its own initiative or at the request of the  
2 governor, the legislature or state or local agencies pertaining to any  
3 department objectives.

4           4. Provide information and advice on request of any local, state or  
5 federal agencies and private persons and business enterprises on matters  
6 within the scope of the department.

7           5. Consult with and make recommendations to the governor and the  
8 legislature on all matters concerning department objectives.

9           6. Promote and coordinate the management of air resources to assure  
10 their protection, enhancement and balanced utilization consistent with the  
11 environmental policy of this state.

12           7. Promote and coordinate the protection and enhancement of the  
13 quality of water resources consistent with the environmental policy of this  
14 state.

15           8. Encourage industrial, commercial, residential and community  
16 development that maximizes environmental benefits and minimizes the effects  
17 of less desirable environmental conditions.

18           9. Assure the preservation and enhancement of natural beauty and  
19 man-made scenic qualities.

20           10. Provide for the prevention and abatement of all water and air  
21 pollution including that related to particulates, gases, dust, vapors, noise,  
22 radiation, odor, nutrients and heated liquids in accordance with article 3 of  
23 this chapter and chapters 2 and 3 of this title.

24           11. Promote and recommend methods for the recovery, recycling and reuse  
25 or, if recycling is not possible, the disposal of solid wastes consistent  
26 with sound health, scenic and environmental quality policies. BEGINNING IN  
27 2014, THE DEPARTMENT SHALL REPORT ANNUALLY ON ITS REVENUES AND EXPENDITURES  
28 RELATING TO THE SOLID AND HAZARDOUS WASTE PROGRAMS OVERSEEN OR ADMINISTERED  
29 BY THE DEPARTMENT.

30           12. Prevent pollution through the regulation of the storage, handling  
31 and transportation of solids, liquids and gases that may cause or contribute  
32 to pollution.

33           13. Promote the restoration and reclamation of degraded or despoiled  
34 areas and natural resources.

35           14. Assist the department of health services in recruiting and training  
36 state, local and district health department personnel.

37           15. Participate in the state civil defense program and develop the  
38 necessary organization and facilities to meet wartime or other disasters.

39           16. Cooperate with the Arizona-Mexico commission in the governor's  
40 office and with researchers at universities in this state to collect data and  
41 conduct projects in the United States and Mexico on issues that are within  
42 the scope of the department's duties and that relate to quality of life,  
43 trade and economic development in this state in a manner that will help the  
44 Arizona-Mexico commission to assess and enhance the economic competitiveness  
45 of this state and of the Arizona-Mexico region.

1        17. Unless specifically authorized by the legislature, ensure that  
2 state laws, rules, standards, permits, variances and orders are adopted and  
3 construed to be consistent with and no more stringent than the corresponding  
4 federal law that addresses the same subject matter. This provision shall not  
5 be construed to adversely affect standards adopted by an Indian tribe under  
6 federal law.

7        B. The department, through the director, shall:

8        1. Contract for the services of outside advisers, consultants and  
9 aides reasonably necessary or desirable to enable the department to  
10 adequately perform its duties.

11       2. Contract and incur obligations reasonably necessary or desirable  
12 within the general scope of department activities and operations to enable  
13 the department to adequately perform its duties.

14       3. Utilize any medium of communication, publication and exhibition  
15 when disseminating information, advertising and publicity in any field of its  
16 purposes, objectives or duties.

17       4. Adopt procedural rules that are necessary to implement the  
18 authority granted under this title, but that are not inconsistent with other  
19 provisions of this title.

20       5. Contract with other agencies, including laboratories, in furthering  
21 any department program.

22       6. Use monies, facilities or services to provide matching  
23 contributions under federal or other programs that further the objectives and  
24 programs of the department.

25       7. Accept gifts, grants, matching monies or direct payments from  
26 public or private agencies or private persons and enterprises for department  
27 services and publications and to conduct programs that are consistent with  
28 the general purposes and objectives of this chapter. Monies received  
29 pursuant to this paragraph shall be deposited in the department fund  
30 corresponding to the service, publication or program provided.

31       8. Provide for the examination of any premises if the director has  
32 reasonable cause to believe that a violation of any environmental law or rule  
33 exists or is being committed on the premises. The director shall give the  
34 owner or operator the opportunity for its representative to accompany the  
35 director on an examination of those premises. Within forty-five days after  
36 the date of the examination, the department shall provide to the owner or  
37 operator a copy of any report produced as a result of any examination of the  
38 premises.

39       9. Supervise sanitary engineering facilities and projects in this  
40 state, authority for which is vested in the department, and own or lease land  
41 on which sanitary engineering facilities are located, and operate the  
42 facilities, if the director determines that owning, leasing or operating is  
43 necessary for the public health, safety or welfare.

1        10. Adopt and enforce rules relating to approving design documents for  
2 constructing, improving and operating sanitary engineering and other  
3 facilities for disposing of solid, liquid or gaseous deleterious matter.

4        11. Define and prescribe reasonably necessary rules regarding the water  
5 supply, sewage disposal and garbage collection and disposal for subdivisions.  
6 The rules shall:

7        (a) Provide for minimum sanitary facilities to be installed in the  
8 subdivision and may require that water systems plan for future needs and be  
9 of adequate size and capacity to deliver specified minimum quantities of  
10 drinking water and to treat all sewage.

11        (b) Provide that the design documents showing or describing the water  
12 supply, sewage disposal and garbage collection facilities be submitted with a  
13 fee to the department for review and that no lots in any subdivision be  
14 offered for sale before compliance with the standards and rules has been  
15 demonstrated by approval of the design documents by the department.

16        12. Prescribe reasonably necessary measures to prevent pollution of  
17 water used in public or semipublic swimming pools and bathing places and to  
18 prevent deleterious conditions at such places. The rules shall prescribe  
19 minimum standards for the design of and for sanitary conditions at any public  
20 or semipublic swimming pool or bathing place and provide for abatement as  
21 public nuisances of premises and facilities that do not comply with the  
22 minimum standards. The rules shall be developed in cooperation with the  
23 director of the department of health services and shall be consistent with  
24 the rules adopted by the director of the department of health services  
25 pursuant to section 36-136, subsection H, paragraph 10.

26        13. Prescribe reasonable rules regarding sewage collection, treatment,  
27 disposal and reclamation systems to prevent the transmission of sewage borne  
28 or insect borne diseases. The rules shall:

29        (a) Prescribe minimum standards for the design of sewage collection  
30 systems and treatment, disposal and reclamation systems and for operating the  
31 systems.

32        (b) Provide for inspecting the premises, systems and installations and  
33 for abating as a public nuisance any collection system, process, treatment  
34 plant, disposal system or reclamation system that does not comply with the  
35 minimum standards.

36        (c) Require that design documents for all sewage collection systems,  
37 sewage collection system extensions, treatment plants, processes, devices,  
38 equipment, disposal systems, on-site wastewater treatment facilities and  
39 reclamation systems be submitted with a fee for review to the department and  
40 may require that the design documents anticipate and provide for future  
41 sewage treatment needs.

42        (d) Require that construction, reconstruction, installation or  
43 initiation of any sewage collection system, sewage collection system  
44 extension, treatment plant, process, device, equipment, disposal system,

1 on-site wastewater treatment facility or reclamation system conform with  
2 applicable requirements.

3 14. Prescribe reasonably necessary rules regarding excreta storage,  
4 handling, treatment, transportation and disposal. The rules shall:

5 (a) Prescribe minimum standards for human excreta storage, handling,  
6 treatment, transportation and disposal and shall provide for inspection of  
7 premises, processes and vehicles and for abating as public nuisances any  
8 premises, processes or vehicles that do not comply with the minimum  
9 standards.

10 (b) Provide that vehicles transporting human excreta from privies,  
11 septic tanks, cesspools and other treatment processes shall be licensed by  
12 the department subject to compliance with the rules. THE DEPARTMENT MAY  
13 REQUIRE PAYMENT OF A FEE AS A CONDITION OF LICENSURE. AFTER THE EFFECTIVE  
14 DATE OF THIS AMENDMENT TO THIS SECTION, THE DEPARTMENT SHALL ESTABLISH BY  
15 RULE A FEE AS A CONDITION OF LICENSURE, INCLUDING A MAXIMUM FEE. AS PART OF  
16 THE RULE MAKING PROCESS, THERE MUST BE PUBLIC NOTICE AND COMMENT AND A REVIEW  
17 OF THE RULE BY THE JOINT LEGISLATIVE BUDGET COMMITTEE. AFTER SEPTEMBER 30,  
18 2013, THE DEPARTMENT SHALL NOT INCREASE THAT FEE BY RULE WITHOUT SPECIFIC  
19 STATUTORY AUTHORITY FOR THE INCREASE. THE FEES SHALL BE DEPOSITED, PURSUANT  
20 TO SECTIONS 35-146 AND 35-147, IN THE SOLID WASTE FEE FUND ESTABLISHED BY  
21 SECTION 49-881.

22 15. Perform the responsibilities of implementing and maintaining a data  
23 automation management system to support the reporting requirements of title  
24 III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499)  
25 and title 26, chapter 2, article 3.

26 16. Approve remediation levels pursuant to article 4 of this chapter.

27 17. ESTABLISH OR REVISE FEES BY RULE PURSUANT TO THE AUTHORITY GRANTED  
28 UNDER TITLE 44, CHAPTER 9, ARTICLE 8 AND CHAPTERS 4 AND 5 OF THIS TITLE FOR  
29 THE DEPARTMENT TO ADEQUATELY PERFORM ITS DUTIES. ALL FEES SHALL BE FAIRLY  
30 ASSESSED AND IMPOSE THE LEAST BURDEN AND COST TO THE PARTIES SUBJECT TO THE  
31 FEES. IN ESTABLISHING OR REVISING FEES, THE DEPARTMENT SHALL BASE THE FEES  
32 ON:

33 (a) THE DIRECT AND INDIRECT COSTS OF THE DEPARTMENT'S RELEVANT DUTIES,  
34 INCLUDING EMPLOYEES SALARIES AND BENEFITS, PROFESSIONAL AND OUTSIDE SERVICES,  
35 EQUIPMENT, IN-STATE TRAVEL AND OTHER NECESSARY OPERATIONAL EXPENSES DIRECTLY  
36 RELATED TO ISSUING LICENSES AS DEFINED IN TITLE 41, CHAPTER 6 AND ENFORCING  
37 THE REQUIREMENTS OF THE APPLICABLE REGULATORY PROGRAM.

38 (b) THE AVAILABILITY OF OTHER FUNDS FOR THE DUTIES PERFORMED.

39 (c) THE IMPACT OF THE FEES ON THE PARTIES SUBJECT TO THE FEES.

40 (d) THE FEES CHARGED FOR SIMILAR DUTIES PERFORMED BY THE DEPARTMENT,  
41 OTHER AGENCIES AND THE PRIVATE SECTOR.

42 C. The department may:

43 1. Charge fees to cover the costs of all permits and inspections it  
44 performs to ensure compliance with rules adopted under section 49-203, except  
45 that state agencies are exempt from paying the fees. Monies collected

1 pursuant to this subsection shall be deposited, pursuant to sections 35-146  
2 and 35-147, in the water quality fee fund established by section 49-210.

3 2. Contract with private consultants for the purposes of assisting the  
4 department in reviewing applications for licenses, permits or other  
5 authorizations to determine whether an applicant meets the criteria for  
6 issuance of the license, permit or other authorization. If the department  
7 contracts with a consultant under this paragraph, an applicant may request  
8 that the department expedite the application review by requesting that the  
9 department use the services of the consultant and by agreeing to pay the  
10 department the costs of the consultant's services. Notwithstanding any other  
11 law, monies paid by applicants for expedited reviews pursuant to this  
12 paragraph are appropriated to the department for use in paying consultants  
13 for services.

14 D. The director may:

15 1. If the director has reasonable cause to believe that a violation of  
16 any environmental law or rule exists or is being committed, inspect any  
17 person or property in transit through this state and any vehicle in which the  
18 person or property is being transported and detain or disinfect the person,  
19 property or vehicle as reasonably necessary to protect the environment if a  
20 violation exists.

21 2. Authorize in writing any qualified officer or employee in the  
22 department to perform any act that the director is authorized or required to  
23 do by law.

24 Sec. 4. Title 49, chapter 4, article 1, Arizona Revised Statutes, is  
25 amended by adding section 49-706, to read:

26 49-706. Waste programs general permits; rules

27 A. THE DEPARTMENT MAY ESTABLISH A GENERAL PERMIT FOR ANY PERMIT OR  
28 LICENSE ISSUED PURSUANT TO THIS CHAPTER. THE GENERAL PERMIT CONSISTS OF THE  
29 FOLLOWING:

30 1. THE DIRECTOR MAY ISSUE BY RULE A GENERAL PERMIT FOR A DEFINED CLASS  
31 OF FACILITIES, ACTIVITIES OR PRACTICES IF ALL OF THE FOLLOWING APPLY:

32 (a) THE COST OF ISSUING INDIVIDUAL PERMITS OR LICENSES CANNOT BE  
33 JUSTIFIED BY ANY ENVIRONMENTAL OR PUBLIC HEALTH BENEFIT THAT MAY BE GAINED  
34 FROM ISSUING INDIVIDUAL PERMITS.

35 (b) THE FACILITIES, ACTIVITIES OR PRACTICES IN THE CLASS ARE  
36 SUBSTANTIALLY SIMILAR IN NATURE.

37 (c) THE DIRECTOR IS SATISFIED THAT APPROPRIATE CONDITIONS UNDER A  
38 GENERAL PERMIT FOR OPERATING THE FACILITIES OR CONDUCTING THE ACTIVITY OR  
39 PRACTICE WILL MEET THE APPLICABLE REQUIREMENTS PRESCRIBED IN THIS CHAPTER FOR  
40 THE FACILITY, ACTIVITY OR PRACTICE.

41 2. IN ADDITION TO OTHER APPLICABLE ENFORCEMENT ACTIONS, IF A PERSON IS  
42 IN SUBSTANTIAL NONCOMPLIANCE WITH THE CONDITIONS OF A GENERAL PERMIT, THE  
43 DIRECTOR MAY REVOKE COVERAGE UNDER THE GENERAL PERMIT FOR THAT PERSON AND  
44 REQUIRE THAT THE PERSON OBTAIN AN INDIVIDUAL PERMIT. A GENERAL PERMIT MAY BE



1 REVOKED, MODIFIED OR SUSPENDED BY RULE IF THE DIRECTOR DETERMINES THAT ANY OF  
2 THE CONDITIONS PRESCRIBED IN PARAGRAPH 1 NO LONGER APPLY.

3 3. RULES ADOPTED PURSUANT TO PARAGRAPH 1 MAY REQUIRE A PERSON SEEKING  
4 COVERAGE UNDER A GENERAL PERMIT TO NOTIFY THE DIRECTOR OF THE PERSON'S INTENT  
5 TO OPERATE PURSUANT TO THE GENERAL PERMIT AND TO PAY THE APPLICABLE FEE  
6 ESTABLISHED BY THE DIRECTOR BY RULE.

7 B. AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE  
8 DIRECTOR SHALL ESTABLISH BY RULE FEES FOR GENERAL PERMITS PURSUANT TO THIS  
9 SECTION, INCLUDING MAXIMUM FEES. AS PART OF THE RULE MAKING PROCESS, THERE  
10 MUST BE PUBLIC NOTICE AND COMMENT AND A REVIEW OF THE RULE BY THE JOINT  
11 LEGISLATIVE BUDGET COMMITTEE. AFTER SEPTEMBER 30, 2013, THE DIRECTOR SHALL  
12 NOT INCREASE THOSE FEES BY RULE WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE  
13 INCREASE. FEES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED,  
14 PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE SOLID WASTE FEE FUND  
15 ESTABLISHED BY SECTION 49-881.

16 Sec. 5. Section 49-747, Arizona Revised Statutes, is amended to read:  
17 49-747. Annual registration of solid waste landfills; fee;  
18 disposition of revenue

19 A. All solid waste landfills shall be registered annually with the  
20 department.

21 B. The director shall establish a procedure for mailing registration  
22 forms each year to the owners of all solid waste landfills. The registration  
23 is valid for one year from the date of registration.

24 C. At the time of registration the owner of a solid waste landfill  
25 shall pay to the department an annual fee. AFTER THE EFFECTIVE DATE OF THIS  
26 AMENDMENT TO THIS SECTION, THE DEPARTMENT SHALL ESTABLISH BY RULE AN ANNUAL  
27 FEE, INCLUDING A MAXIMUM FEE. AS PART OF THE RULE MAKING PROCESS, THERE MUST  
28 BE PUBLIC NOTICE AND COMMENT AND A REVIEW OF THE RULE BY THE JOINT  
29 LEGISLATIVE BUDGET COMMITTEE. AFTER SEPTEMBER 30, 2013, THE DEPARTMENT SHALL  
30 NOT INCREASE THAT FEE BY RULE WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE  
31 INCREASE. ~~for each site registered which is determined according to the~~  
32 ~~population that the landfill serves based on the following schedule:~~

33 ~~1. For solid waste landfills that serve fewer than ten thousand~~  
34 ~~people, five hundred dollars.~~

35 ~~2. For solid waste landfills that serve at least ten thousand people~~  
36 ~~but less than twenty five thousand people, seven hundred fifty dollars.~~

37 ~~3. For solid waste landfills that serve at least twenty-five thousand~~  
38 ~~people but less than fifty thousand people, one thousand dollars.~~

39 ~~4. For solid waste landfills that serve at least fifty thousand people~~  
40 ~~but less than one hundred thousand people, two thousand dollars.~~

41 ~~5. For solid waste landfills that serve at least one hundred thousand~~  
42 ~~people but less than two hundred thousand people, three thousand dollars.~~

43 ~~6. For solid waste landfills that serve two hundred thousand people or~~  
44 ~~more, five thousand dollars.~~

1       ~~7. Solid waste landfills that are open to the public and that accept~~  
2 ~~demolition waste shall pay a flat fee of one thousand five hundred dollars.~~

3       ~~8. Solid waste landfills that are closed to the public and that accept~~  
4 ~~nonhazardous waste shall pay a flat fee of one thousand five hundred dollars.~~

5       D. All monies collected pursuant to this section shall be deposited,  
6 PURSUANT TO SECTIONS 35-146 AND 35-147, in the solid waste fee fund  
7 established by section 49-881. The director may authorize the expenditure of  
8 monies from the solid waste fee fund to pay the reasonable and necessary  
9 costs of administering the registration program pursuant to section 49-881.

10       Sec. 6. Section 49-761, Arizona Revised Statutes, is amended to read:  
11 49-761. Rule making authority for solid waste facilities;

12       financial assurance; recycling facilities

13       A. The department shall adopt rules regarding the storage, processing,  
14 treatment and disposal of solid waste as prescribed by subsections B through  
15 M of this section. In adopting rules, the department shall consider the  
16 nature of the waste streams at the facilities to be regulated. The  
17 department shall also consider other applicable federal and state laws and  
18 rules in an effort to avoid practices or requirements that duplicate, are  
19 inconsistent with or will result in dual regulation with other applicable  
20 rules and laws. In adopting rules for solid waste facilities, the director  
21 may include requirements for corrective actions in response to a release, as  
22 defined in section 49-281, from a solid waste facility that violates or  
23 results in a violation of any provision of this chapter, rule promulgated  
24 ADOPTED pursuant to this chapter or solid waste facility plan approved  
25 pursuant to this chapter. These rules shall be consistent with the  
26 provisions of section 49-762.08, subsection B, subsection C, paragraphs 1 and  
27 2, and subsections D and E.

28       B. For purposes of administering 42 United States Code section 6945,  
29 as amended November 8, 1984, 40 C.F.R. part 258 is adopted by reference  
30 except as prescribed by paragraph 2 of this subsection. This subsection, as  
31 it applies to municipal solid waste landfills, governs if there is any  
32 conflict between this subsection and any other statute relating to solid  
33 waste. Municipal solid waste landfill facility plans submitted pursuant to  
34 section 49-762 shall comply with this subsection. In administering this  
35 subsection or in adopting or administering any rules adopted pursuant to this  
36 subsection, the department shall ensure that any discretion allowed to a  
37 director of an approved state pursuant to the federal regulations is  
38 maintained. The following apply to the department's administration of 42  
39 United States Code section 6945 and to the department's adoption of rules for  
40 municipal solid waste landfills:

41       1. The department may adopt rules for municipal solid waste landfills.  
42 Rules adopted pursuant to this paragraph shall not be more stringent than or  
43 conflict with 40 C.F.R. part 258 for nonprocedural standards, except that the  
44 department may adopt aquifer protection standards that are more stringent  
45 than 40 C.F.R. part 258 if those standards are consistent with and no more

1 stringent than standards developed pursuant to chapter 2, article 3 of this  
2 title, or if the standards are adopted pursuant to article 9 of this chapter.  
3 Rules adopted pursuant to this paragraph are effective on the concurrence of  
4 the administrator with this state's municipal solid waste landfill program.

5 2. 40 C.F.R. part 258, table I is not adopted in its entirety. The  
6 department shall use aquifer water quality standards that have been adopted  
7 by the department pursuant to section 49-223 and shall use those portions of  
8 table I that are more restrictive than the standards adopted pursuant to  
9 section 49-223.

10 C. The department shall adopt rules for those solid waste land  
11 disposal facilities that are not municipal solid waste landfills. Rules  
12 adopted pursuant to this subsection shall not be more stringent than or  
13 conflict with 40 C.F.R. part 257 for nonprocedural standards, except that the  
14 department may adopt aquifer protection standards that are more stringent  
15 than 40 C.F.R. part 257 if these standards are consistent with and no more  
16 stringent than standards developed pursuant to chapter 2, article 3 of this  
17 title, or if the standards are adopted pursuant to article 9 of this chapter.  
18 In administering this subsection, the department shall ensure that any  
19 discretion allowed to a director of an approved state pursuant to the federal  
20 regulations is maintained in the department's rules. Aquifer protection  
21 provisions adopted pursuant to this subsection do not apply to an owner or  
22 operator of a solid waste facility if the owner or operator submits an  
23 administratively complete application for an aquifer protection permit  
24 pursuant to chapter 2, article 3 of this title before the date that the owner  
25 or operator is required to submit a solid waste facility plan.

26 D. The department shall adopt rules to define biohazardous medical  
27 waste and to regulate biohazardous medical waste and medical sharps to  
28 include all of the following:

29 1. A definition for biohazardous medical waste that includes wastes  
30 that contain material that is likely to transmit etiologic agents that have  
31 been shown to cause or contribute to increased human morbidity or mortality  
32 of epidemiologic significance. The department shall consult with the  
33 department of health services in making this determination.

34 2. Reasonably necessary rules regarding the storage, collection,  
35 transportation, treatment and disposal of biohazardous medical waste and  
36 medical sharps, beginning with the placement by the generator of the waste in  
37 containers for the purpose of waste collection. THE DEPARTMENT MAY REQUIRE  
38 PAYMENT OF A FEE FOR THE LICENSURE OF A TRANSPORTER OF BIOHAZARDOUS MEDICAL  
39 WASTE. AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE  
40 DEPARTMENT SHALL ESTABLISH BY RULE A FEE FOR THE LICENSURE OF A TRANSPORTER  
41 OF BIOHAZARDOUS MEDICAL WASTE, INCLUDING A MAXIMUM FEE. AS PART OF THE RULE  
42 MAKING PROCESS, THERE MUST BE PUBLIC NOTICE AND COMMENT AND A REVIEW OF THE  
43 RULE BY THE JOINT LEGISLATIVE BUDGET COMMITTEE. AFTER SEPTEMBER 30, 2013,  
44 THE DEPARTMENT SHALL NOT INCREASE THAT FEE BY RULE WITHOUT SPECIFIC STATUTORY  
45 AUTHORITY FOR THE INCREASE. THE FEES SHALL BE DEPOSITED, PURSUANT TO

1 SECTIONS 35-146 AND 35-147, IN THE SOLID WASTE FEE FUND ESTABLISHED BY  
2 SECTION 49-881. In the case of self-hauling of waste by the generator, all  
3 storage facilities under the generator's control and all waste handling  
4 practices including storage, treatment and transportation shall be in  
5 accordance with these rules. The department shall also adopt reasonably  
6 necessary rules regarding the tracking of biohazardous medical waste and  
7 medical sharps.

8 E. The department may adopt reasonably necessary rules regarding the  
9 storage, collection, transportation, treatment and disposal of  
10 nonbiohazardous medical waste beginning with the placement by the generator  
11 of the waste in containers for the purpose of waste collection. In the case  
12 of self-hauling of the waste by the generator, all storage facilities under  
13 the generator's control and all waste handling practices including storage,  
14 treatment and transportation shall be in accordance with these rules.

15 F. The department shall adopt rules for the application of sludge from  
16 a wastewater treatment facility to land for use as fertilizer or beneficial  
17 soil amendment. For THE purposes of this subsection, "sludge" has the same  
18 meaning as sewage sludge as defined in 40 Code of Federal Regulations section  
19 122.2 in effect on January 1, 1998.

20 G. The department shall adopt rules regarding the storage, processing,  
21 treatment or disposal of solid waste at solid waste facilities that are  
22 identified in section 49-762.01. The rules shall allow the owner or operator  
23 to certify compliance with the department's statutes and rules in lieu of  
24 obtaining a solid waste facility plan approval. The rules shall provide that  
25 the applicant at its option may request approval of a solid waste facility  
26 plan rather than certifying compliance.

27 H. The department shall issue by rule best management practices for  
28 the classes of solid waste facilities set forth in section 49-762.02.

29 I. The department shall adopt reasonably necessary rules establishing  
30 minimum standards for storing, collecting, transporting, disposing and  
31 reclaiming solid waste, including garbage, trash, rubbish, manure and other  
32 objectionable wastes. These rules shall provide for inspecting premises,  
33 containers, processes, equipment and vehicles, and for abating as  
34 environmental nuisances any premises, containers, processes, equipment or  
35 vehicles that do not comply with the minimum standards of these rules. The  
36 rules adopted pursuant to this subsection do not apply to sites that are  
37 either regulated by section 49-762, 49-762.01 or 49-762.02 or exempted by  
38 section 49-701, paragraph 29 or section 49-701.01. Notwithstanding any other  
39 provision of this subsection, rules adopted pursuant to this subsection shall  
40 apply to defining environmental nuisances pursuant to section 49-141.

41 J. The department shall adopt rules relating to financial assurance  
42 requirements. The rules shall indicate the types of financial assurance  
43 mechanisms to be required and the content, terms and conditions of each  
44 financial mechanism, including circumstances under which the department may  
45 take action on the financial assurance mechanism for facility closure,

1 postclosure care if necessary and corrective action for known releases. The  
2 financial assurance mechanisms shall include all of the following:

- 3 1. Surety bond.
- 4 2. Certificate of deposit.
- 5 3. Trust fund with pay-in period.
- 6 4. Letter of credit.
- 7 5. Insurance policy.
- 8 6. Certificate of self-insurance.
- 9 7. Deposit with the state treasurer.
- 10 8. Evidence of ability to meet any of the following:
  - 11 (a) Corporate financial test.
  - 12 (b) Local government financial test.
  - 13 (c) Corporate guarantee test.
  - 14 (d) Local government guarantee test.
  - 15 (e) Political subdivision financial test that shall require the
- 16 department to consider the entity's bond rating, income stream, assets,
- 17 liabilities and assessed valuation of taxable property.
- 18 9. Multiple financial assurance mechanisms.
- 19 10. Additional financial assurance mechanisms that may be acceptable to
- 20 the director.

21 K. The department shall adopt rules that prescribe standards to be  
22 used in determining if a site is a recycling facility.

23 L. The director may adopt rules that prescribe standards to be used in  
24 determining if a solid waste facility includes significant solid waste  
25 transfer activities that warrant the facility's regulation as a transfer  
26 facility.

27 M. The department shall adopt facility design, construction,  
28 operation, closure and postclosure maintenance rules for biosolids processing  
29 facilities and household waste composting facilities that must obtain plan  
30 approval pursuant to section 49-762.

31 Sec. 7. Section 49-762.03, Arizona Revised Statutes, is amended to  
32 read:

33 49-762.03. Solid waste facility plan approval

34 A. Except as provided in subsections C and E of this section, the  
35 owner or operator of a solid waste facility identified in section 49-762  
36 shall obtain the department's approval of a solid waste facility plan as  
37 follows:

38 1. For a new solid waste facility and before commencing construction  
39 of the solid waste facility, the owner or operator shall obtain approval of a  
40 solid waste facility plan that satisfies rules adopted by the director.

41 2. For an existing solid waste facility, the owner or operator shall  
42 file with the department a solid waste facility plan within one hundred  
43 eighty days after the effective date of rules adopted pursuant to section  
44 49-761 that contain design and operation standards for that type of solid  
45 waste facility. An existing solid waste facility may continue to operate

1 while the department reviews the plan. For an existing public solid waste  
2 facility that is currently subject to rules that contain design and operation  
3 standards, the owner or operator shall file with the department a solid waste  
4 facility plan by October 1, 1996, if the facility has not received plan  
5 approval before that date.

6 B. For a solid waste facility subject to site approval pursuant to  
7 section 49-767, a solid waste facility plan shall not be submitted to the  
8 department until the site for the solid waste facility has been approved  
9 pursuant to section 49-767. For all new solid waste landfills, a solid waste  
10 facility plan shall provide evidence of compliance with or the  
11 inapplicability of city, town or county zoning ordinances.

12 C. The director shall grant temporary authorization to operate a new  
13 solid waste facility if in the director's opinion the solid waste facility is  
14 needed immediately and could not be properly planned in advance.

15 D. An owner or operator of more than one solid waste facility that  
16 conducts similar activities with similar waste streams may prepare and  
17 implement a single plan that covers all of its facilities if it has received  
18 prior approval from the director and has complied with rules regarding single  
19 plans that are adopted by the director.

20 E. The director by rule may exempt from some or all of the facility  
21 plan approval requirements those solid waste facilities that are located in  
22 unincorporated areas and that are used for disposal by any single family  
23 residence located on the same property or those solid waste facilities that  
24 do not present a threat to public health and safety and the environment.

25 F. The department shall collect from the applicant a reasonable fee  
26 ~~based on the department's reasonable direct costs, not including indirect~~  
27 ~~costs~~ FEES ESTABLISHED BY THE DIRECTOR BY RULE for the APPROVAL OF THE PLAN,  
28 INCLUDING COSTS FOR THE processing, review, approval or disapproval of the  
29 plan, ~~to be reviewed on an annual basis. The director may amend an existing~~  
30 ~~rule or adopt a new rule to establish criteria for those costs~~ AFTER THE  
31 EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE DIRECTOR SHALL  
32 ESTABLISH BY RULE FEES FOR THE APPROVAL OF THE PLAN, INCLUDING COSTS FOR THE  
33 PROCESSING, REVIEW, APPROVAL OR DISAPPROVAL OF THE PLAN AND MAXIMUM FEES. AS  
34 PART OF THE RULE MAKING PROCESS, THERE MUST BE PUBLIC NOTICE AND COMMENT AND  
35 A REVIEW OF THE RULE BY THE JOINT LEGISLATIVE BUDGET COMMITTEE. AFTER  
36 SEPTEMBER 30, 2013, THE DIRECTOR SHALL NOT INCREASE THOSE FEES BY RULE  
37 WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE INCREASE. ~~That rule making is~~  
38 ~~exempt from title 41, chapter 6, except that the director shall provide for~~  
39 ~~reasonable notice and a hearing.~~ THE FEES SHALL BE DEPOSITED, PURSUANT TO  
40 SECTIONS 35-146 AND 35-147, IN THE SOLID WASTE FEE FUND ESTABLISHED BY  
41 SECTION 49-881.

42 G. The department may contract with private consultants for the  
43 purposes of assisting the department in reviewing solid waste facility plan  
44 approvals to determine whether a facility meets the criteria of section  
45 49-762.04. The department shall pay the consultant for the services rendered

1 by the consultant from fees paid by the applicant. If the department  
2 contracts with a consultant under this section, an applicant may request that  
3 the department expedite the application review by requesting that the  
4 department use the services of the consultant and by agreeing to pay the  
5 department the costs of the consultant's services. Notwithstanding section  
6 49-881, fees collected by the department for expedited plan review shall be  
7 deposited, PURSUANT TO SECTIONS 35-146 AND 35-147, in the solid waste fee  
8 fund ESTABLISHED BY SECTION 49-881 and used for payment of the costs of the  
9 consultant services. Fees received for the purpose of expedited plan review  
10 are not subject to appropriation.

11 Sec. 8. Section 49-762.05, Arizona Revised Statutes, is amended to  
12 read:

13 49-762.05. Self-certification procedures; rules

14 A. The owner or operator of a solid waste facility identified in  
15 section 49-762.01 shall comply with the self-certification requirements  
16 prescribed by this section and rules adopted by the director.

17 B. The owner or operator of a new solid waste facility may be required  
18 by rule to submit some or all of the following information to the department  
19 before the start of construction:

20 1. Design and operational plans or other documents necessary to  
21 describe the design of the facility and the practices and methods that are or  
22 will be used to comply with the design and operation rules adopted by the  
23 director for that type of facility.

24 2. A demonstration of financial assurance in accordance with section  
25 49-770.

26 3. A demonstration of compliance with either local zoning laws or  
27 section 49-767.

28 4. A demonstration of the issuance of other environmental permits that  
29 are required by statute.

30 5. A copy of the public notice in a newspaper of general circulation  
31 in the area in which a new solid waste facility will be located. The public  
32 notice shall state the intent to construct and operate a new solid waste  
33 facility pursuant to this subsection.

34 C. The owner or operator of an existing solid waste facility may be  
35 required by rule to submit some or all of the information described in  
36 subsection B, paragraphs 1 through 4 of this section within one hundred  
37 eighty days after the adoption of design and operation rules for that type of  
38 facility.

39 D. The owner or operator shall maintain all documents required by  
40 statute or rule at the solid waste facility or any other location as  
41 determined by rule, and those documents shall be made available for  
42 inspection pursuant to section 49-763.

43 E. An owner or operator making a substantial change to a solid waste  
44 facility shall submit documentation to the department before the start of  
45 construction stating that the facility will remain in compliance with the

1 design and operation rules for that type of facility. The owner or operator  
2 of a solid waste facility that makes any changes in its compliance with  
3 subsection B, paragraph 2 or 3 of this section shall submit copies of those  
4 changes to the department.

5 F. A person making a submittal under this section shall certify in  
6 writing that the information submitted is true, accurate and complete to the  
7 best of the person's knowledge and belief.

8 G. Self-certified facilities identified in section 49-762.01 are not  
9 subject to the location restrictions of section 49-772.

10 H. The department shall collect from the applicant ~~an initial~~  
11 ~~registration fee of five hundred dollars for a self certification filing.~~  
12 ~~The department shall collect from the applicant a registration fee of two~~  
13 ~~hundred dollars for a self certification filing for a substantial change~~  
14 REGISTRATION FEES. AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS  
15 SECTION, THE DEPARTMENT SHALL ESTABLISH BY RULE REGISTRATION FEES, INCLUDING  
16 MAXIMUM FEES. AS PART OF THE RULE MAKING PROCESS, THERE MUST BE PUBLIC  
17 NOTICE AND COMMENT AND A REVIEW OF THE RULE BY THE JOINT LEGISLATIVE BUDGET  
18 COMMITTEE. AFTER SEPTEMBER 30, 2013, THE DEPARTMENT SHALL NOT INCREASE THOSE  
19 FEES BY RULE WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE INCREASE fees  
20 collected pursuant to this section shall be deposited, PURSUANT TO SECTIONS  
21 35-146 AND 35-147, in the solid waste fee fund established by section 49-881.

22 I. An owner or operator of more than one solid waste facility  
23 identified in section 49-762.01 that conducts similar activities with similar  
24 waste streams may submit one self-certification filing for all such  
25 facilities if the owner or operator has received prior approval from the  
26 director and has complied with rules for self-certification that are adopted  
27 by the director. ~~The director shall collect from the applicant only one~~  
28 ~~initial registration fee or substantial change fee for the multiple facility~~  
29 ~~self certification filing in the amounts prescribed by subsection H of this~~  
30 ~~section.~~

31 Sec. 9. Section 49-837, Arizona Revised Statutes, is amended to read:  
32 49-837. Recycling fund; use; advisory committee

33 A. A recycling fund is established to be administered by the director.  
34 The fund consists of monies appropriated by the legislature, gifts, grants,  
35 donations and monies derived from the landfill disposal fees in section  
36 49-836. Monies derived from landfill disposal fees are subject to  
37 legislative appropriation. Monies in the fund are exempt from lapsing under  
38 section 35-190. On notice from the director, the state treasurer shall  
39 invest and divest monies in the fund as provided by section 35-313, and  
40 monies earned from investment shall be credited to the fund.

41 B. Monies from the recycling fund shall be used for the following  
42 purposes:

43 1. ~~At least forty per cent shall be allocated for~~ Grants to or  
44 contracts with political subdivisions, nonprofit organizations or private  
45 enterprise for research, demonstration projects, market development and



1 source reduction studies and implementation of the recommendations or reports  
2 prepared pursuant to this article.

3 ~~2. At least twenty per cent shall be allocated for~~ Public information,  
4 public education and technical assistance programs concerning litter control,  
5 recycling and source reduction.

6 ~~3. No more than five per cent may be allocated for~~ The collection and  
7 administration of monies in the fund.

8 ~~4. No more than five per cent may be allocated for~~ The administration  
9 of this article.

10 ~~5. At least four per cent but not more than five per cent may be~~  
11 ~~allocated for~~ The administration of the department of commerce recycled  
12 market development program. At the end of each fiscal year, any funds not  
13 expended by the department of commerce for this purpose shall be returned to  
14 the fund.

15 6. THE DEPARTMENT'S SOLID WASTE CONTROL PROGRAM ACTIVITIES PRESCRIBED  
16 IN THIS CHAPTER AND IN TITLE 44.

17 C. In making expenditures pursuant to subsection B, paragraph 2 of  
18 this section, the director shall ensure that counties having a population of  
19 ~~fewer~~ LESS than five hundred thousand persons according to the most recent  
20 United States decennial census receive benefits in proportion to their  
21 contributions to the fund.

22 D. The director shall appoint an advisory committee to advise the  
23 director on the use of monies in the recycling fund. The advisory committee  
24 shall consist of two representatives from private solid waste collection  
25 businesses, two representatives from private solid waste recycling  
26 businesses, four representatives from political subdivisions which have  
27 implemented recycling and source reduction programs, at least one of whom  
28 resides in a county having a population of fewer than five hundred thousand  
29 persons, and one representative of the general public. The members of the  
30 committee serve at the pleasure of the director and are not eligible to  
31 receive compensation, and the committee is an advisory committee for purposes  
32 of title 38, chapter 3, article 3.1.

33 Sec. 10. Section 49-855, Arizona Revised Statutes, is amended to read:

34 49-855. Best management practices; fee; criteria

35 A. The director shall adopt, by rule, best management practices for  
36 the treatment, storage and disposal of each waste to be designated as a  
37 special waste pursuant to this article.

38 B. In adopting best management practices for a special waste, the  
39 director shall consider:

40 1. The availability, effectiveness, economic feasibility and technical  
41 feasibility of alternative handling or management technologies and practice.

42 2. The potential nature and severity of the effect on public health  
43 and the environment resulting from the special waste.

44 3. Circumstances under which the practices shall be applied including  
45 climatological, geological and hydrogeological conditions.

1           4. Consistency with other federal and state laws, rules and  
2 regulations in an effort to avoid practices or requirements that duplicate,  
3 are inconsistent with or result in dual regulation under other federal and  
4 state laws, rules and regulations.

5           C. The best management practices adopted by the director shall contain  
6 procedures necessary for the protection of public health and the environment  
7 for the transportation, treatment, storage and disposal of special wastes.  
8 Additional items to be contained in the best management practices shall  
9 include at least:

10           1. A designated time of not less than ninety days beyond which a waste  
11 may not be stored.

12           2. A fee for each TON OF special waste ~~of not more than two dollars~~  
13 ~~per ton and beginning from and after January 1, 1995, not more than twenty~~  
14 ~~thousand dollars per generator site per year for special waste that is~~  
15 transported to a facility in this state for treatment, storage or disposal.  
16 AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE DEPARTMENT  
17 SHALL ESTABLISH BY RULE A FEE FOR EACH TON OF SPECIAL WASTE THAT IS  
18 TRANSPORTED TO A FACILITY IN THIS STATE FOR TREATMENT, STORAGE OR DISPOSAL,  
19 INCLUDING A MAXIMUM FEE. AS PART OF THE RULE MAKING PROCESS, THERE MUST BE  
20 PUBLIC NOTICE AND COMMENT AND A REVIEW OF THE RULE BY THE JOINT LEGISLATIVE  
21 BUDGET COMMITTEE. AFTER SEPTEMBER 30, 2013, THE DEPARTMENT SHALL NOT  
22 INCREASE THAT FEE BY RULE WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE  
23 INCREASE. THE FEES SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND  
24 35-147, IN THE SOLID WASTE FEE FUND ESTABLISHED BY SECTION 49-881.

25           D. The director may adopt special waste best management practices that  
26 apply to the treatment, storage or disposal of those wastes that are not  
27 regulated as hazardous wastes under federal laws or regulations.

28           E. The director may enact special waste best management practices that  
29 are more stringent than federal laws or regulations that govern  
30 polychlorinated biphenyls pursuant to the toxic substances control act (15  
31 United States Code section 2605) if the director determines in writing that:

32           1. The additional regulation is necessary to protect public health or  
33 the environment.

34           2. There is a scientific basis for the additional regulation based  
35 upon appropriate environment testing and analytical data.

36           3. The additional regulation is technically feasible.

37           F. Nothing in this section shall preclude the director from adopting  
38 best management practices under this article which incorporate management  
39 practices applicable to the treatment, storage or disposal of those wastes  
40 that are not regulated as hazardous wastes under federal laws or regulations.

41           Sec. 11. Section 49-881, Arizona Revised Statutes, is amended to read:

42           49-881. Solid waste fee fund; uses; exemption

43           A. ~~A~~ THE solid waste fee fund is established. The director shall  
44 administer the fund. The fund consists of legislative appropriations,  
45 donations, gifts, grants, REGISTRATION FEES COLLECTED PURSUANT TO SECTIONS

1 44-1303 AND 44-1304.01, waste tire administrative monies distributed pursuant  
2 to section 44-1305, subsection B, paragraph 1, LICENSURE FEES COLLECTED  
3 PURSUANT TO SECTION 49-104, SUBSECTION B, PARAGRAPH 14, SUBDIVISION (b),  
4 SOLID WASTE GENERAL PERMIT FEES COLLECTED PURSUANT TO SECTION 49-706, solid  
5 waste landfill registration fees from section 49-747, LICENSURE FEES  
6 COLLECTED PURSUANT TO SECTION 49-761, SUBSECTION D, PARAGRAPH 2, solid waste  
7 fees collected pursuant to section 49-762.03, subsection F, special waste  
8 management plan fees collected pursuant to section 49-857, special waste  
9 management fees collected pursuant to section 49-863, private consultants  
10 expedited plan review fees collected pursuant to section 49-762.03,  
11 subsection G, self-certification filing fees collected pursuant to section  
12 49-762.05, subsection H, and solid waste landfill disposal fees collected  
13 pursuant to section 49-836 AND SPECIAL WASTE FEES COLLECTED PURSUANT TO  
14 SECTION 49-855, SUBSECTION C, PARAGRAPH 2.

15 B. Monies in the fund are subject to legislative appropriation for  
16 solid waste control programs established in the funding sources pursuant to  
17 subsection A of this section and as determined by the director.

18 C. On notice from the director, the state treasurer shall invest and  
19 divest monies in the fund as provided in section 35-313, and monies earned  
20 from investment shall be credited to the fund. Monies deposited in the fund  
21 are exempt from the provisions of section 35-190 relating to lapsing of  
22 appropriations.

23 Sec. 12. Section 49-922, Arizona Revised Statutes, is amended to read:  
24 49-922. Department rules and standards; prohibited permittees

25 A. The director shall adopt rules to establish a hazardous waste  
26 management program equivalent to and consistent with the federal hazardous  
27 waste regulations promulgated pursuant to subtitle C of the federal act.  
28 Federal hazardous waste regulations may be adopted by reference. The  
29 director shall not adopt a nonprocedural standard that is more stringent than  
30 or conflicts with those found in 40 Code of Federal Regulations sections  
31 PARTS 260 through 268, 270 through 272, 279 and 124. The director shall not  
32 identify a waste as hazardous, if not so identified in the federal hazardous  
33 waste regulations, unless the director finds, based on all the factors in 40  
34 Code of Federal Regulations section 261.11(a)(1), (2), or (3), that the waste  
35 may cause or significantly contribute to an increase in serious irreversible,  
36 or incapacitating reversible, illness or pose a substantial present or  
37 potential hazard to human health or the environment when it is improperly  
38 treated, stored, transported, disposed or otherwise managed.

39 B. These rules shall establish criteria and standards for the  
40 characteristics, identification, listing, generation, transportation,  
41 treatment, storage and disposal of hazardous waste within this state. In  
42 establishing the standards the director shall, where appropriate, distinguish  
43 between new and existing facilities. The criteria and standards shall  
44 include requirements respecting:

1           1. Maintaining records of hazardous waste identified under this  
2 article and the manner in which the waste is generated, transported, treated,  
3 stored or disposed.

4           2. Submission of reports, data, manifests and other information  
5 necessary to ensure compliance with such standards.

6           3. The transportation of hazardous waste, including appropriate  
7 packaging, labeling and marking requirements and requirements respecting the  
8 use of a manifest system, which are consistent with the regulations of the  
9 state and United States departments of transportation governing the  
10 transportation of hazardous materials.

11          4. The operation, maintenance, location, design and construction of  
12 hazardous waste treatment, storage or disposal facilities, including such  
13 additional qualifications as to ownership, continuity of operation,  
14 contingency plans, corrective actions and abatement of continuing releases,  
15 monitoring and inspection programs, personnel training, closure and  
16 postclosure requirements and financial responsibility as may be necessary and  
17 appropriate.

18          5. Requiring a permit for a hazardous waste treatment, storage or  
19 disposal facility including the modification and termination of permits, the  
20 authority to continue activities and permits existing on July 27, 1983  
21 consistent with the federal hazardous waste regulations, and the payment of  
22 ~~a reasonable application fee~~ FEES. The director shall establish and collect  
23 ~~a reasonable fee~~ FEES from the applicant to cover the cost of administrative  
24 services and other expenses associated with evaluating the application and  
25 issuing or denying the permit. AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO  
26 THIS SECTION, THE DIRECTOR SHALL ESTABLISH BY RULE AN APPLICATION FEE TO  
27 COVER THE COST OF ADMINISTRATIVE SERVICES AND OTHER EXPENSES ASSOCIATED WITH  
28 EVALUATING THE APPLICATION AND ISSUING OR DENYING THE PERMIT, INCLUDING A  
29 MAXIMUM FEE. AS PART OF THE RULE MAKING PROCESS, THERE MUST BE PUBLIC NOTICE  
30 AND COMMENT AND A REVIEW OF THE RULE BY THE JOINT LEGISLATIVE BUDGET  
31 COMMITTEE. AFTER SEPTEMBER 30, 2013, THE DIRECTOR SHALL NOT INCREASE THAT  
32 FEE BY RULE WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE INCREASE. THE FEES  
33 SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE HAZARDOUS  
34 WASTE MANAGEMENT FUND ESTABLISHED BY SECTION 49-927.

35          6. Providing the right of entry for inspection and sampling to ensure  
36 compliance with the standards.

37          7. Providing for appropriate public participation in developing,  
38 revising, implementing, amending and enforcing any rule, guideline,  
39 information or program under this article consistent with the federal  
40 hazardous waste program.

41          C. The director may refuse to issue a permit for a facility for  
42 storage, treatment or disposal of hazardous waste to a person if any of the  
43 following applies:

44           1. The person fails to demonstrate sufficient reliability, expertise,  
45 integrity and competence to operate a hazardous waste facility.

1           2. The person has been convicted of, or pled guilty or no contest to,  
2 a felony in any state or federal court during the five years before the date  
3 of the permit application.

4           3. In the case of a corporation or business entity, if any of its  
5 officers, directors, partners, key employees or persons or business entities  
6 holding ten per cent or more of its equity or debt liability has been  
7 convicted of, or pled guilty or no contest to, a felony in any state or  
8 federal court during the five years before the date of the permit  
9 application.

10          D. Nothing in this article shall affect the validity of any existing  
11 rules adopted by the director that are equivalent to and consistent with the  
12 federal hazardous waste regulations until new rules for hazardous waste are  
13 adopted.

14          E. Nothing in this article shall authorize the regulation of small  
15 quantity generators as defined by 40 Code of Federal Regulations section  
16 261.5 in a manner inconsistent with the federal hazardous waste regulations.  
17 However, the director may require reports of any small quantity generator or  
18 group of small quantity generators regarding the treatment, storage,  
19 transportation, disposal or management of hazardous waste if the hazardous  
20 waste of such generator or generators may pose a substantial present or  
21 potential hazard to human health or the environment when it is improperly  
22 treated, stored, transported, disposed or otherwise managed.

23          Sec. 13. Section 49-931, Arizona Revised Statutes, is amended to read:

24          49-931. Hazardous waste fees; definitions

25          A. ~~Beginning January 1, 1992,~~ The following fees apply:

26          1. ~~Except as provided in paragraph 4 of this subsection,~~ A person who  
27 generates hazardous waste that is shipped off site shall pay ~~ten dollars~~ A  
28 FEE for each ton of waste generated. AFTER THE EFFECTIVE DATE OF THIS  
29 AMENDMENT TO THIS SECTION, THE DEPARTMENT SHALL ESTABLISH BY RULE A FEE FOR  
30 THE GENERATION OF HAZARDOUS WASTE THAT IS SHIPPED OFF SITE, INCLUDING A  
31 MAXIMUM FEE. AS PART OF THE RULE MAKING PROCESS, THERE MUST BE PUBLIC NOTICE  
32 AND COMMENT AND A REVIEW OF THE RULE BY THE JOINT LEGISLATIVE BUDGET  
33 COMMITTEE. AFTER SEPTEMBER 30, 2013, THE DEPARTMENT SHALL NOT INCREASE THAT  
34 FEE BY RULE WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE INCREASE. Hazardous  
35 waste that is shipped off site to a facility that is in this state and that  
36 is owned or operated by the same person who generates the waste is exempt  
37 from the fees in this paragraph.

38          2. ~~Except as provided in paragraph 4 of this subsection,~~ An owner or  
39 operator of a facility that disposes of hazardous waste shall pay ~~forty~~  
40 ~~dollars~~ A FEE for each ton of waste disposed. AFTER THE EFFECTIVE DATE OF  
41 THIS AMENDMENT TO THIS SECTION, THE DEPARTMENT SHALL ESTABLISH BY RULE A FEE  
42 FOR AN OWNER OR OPERATOR OF A FACILITY THAT DISPOSES OF HAZARDOUS WASTE,  
43 INCLUDING A MAXIMUM FEE. AS PART OF THE RULE MAKING PROCESS, THERE MUST BE  
44 PUBLIC NOTICE AND COMMENT AND A REVIEW OF THE RULE BY THE JOINT LEGISLATIVE  
45 BUDGET COMMITTEE. AFTER SEPTEMBER 30, 2013, THE DEPARTMENT SHALL NOT

1 INCREASE THAT FEE BY RULE WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE  
2 INCREASE. Hazardous waste that is disposed at a facility that is owned or  
3 operated by the same person who generates the waste is exempt from the fee in  
4 this paragraph.

5 ~~3. Except as provided in paragraph 4 of this subsection,~~ A person who  
6 generates hazardous waste that is retained on site for disposal or that is  
7 shipped off site for disposal to a facility that is owned or operated by that  
8 generator shall pay ~~four dollars~~ A FEE for each ton of hazardous waste  
9 delivered to the disposal facility. AFTER THE EFFECTIVE DATE OF THIS  
10 AMENDMENT TO THIS SECTION, THE DEPARTMENT SHALL ESTABLISH BY RULE A FEE FOR  
11 EACH TON OF HAZARDOUS WASTE DELIVERED TO THE DISPOSAL FACILITY, INCLUDING A  
12 MAXIMUM FEE. AS PART OF THE RULE MAKING PROCESS, THERE MUST BE PUBLIC NOTICE  
13 AND COMMENT AND A REVIEW OF THE RULE BY THE JOINT LEGISLATIVE BUDGET  
14 COMMITTEE. AFTER SEPTEMBER 30, 2013, THE DEPARTMENT SHALL NOT INCREASE THAT  
15 FEE BY RULE WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE INCREASE.

16 4. UNTIL JULY 1, 2012, in lieu of the fees prescribed in paragraphs 1  
17 and 3 of this subsection, a person who generates hazardous waste and who  
18 complies with the pollution prevention planning requirements of article 4 of  
19 this chapter shall pay one-half of the prescribed fee for each ton of  
20 hazardous waste. In lieu of the fees prescribed in paragraph 2 of this  
21 subsection, an owner or operator of a facility that receives hazardous waste  
22 from a person who complies with the pollution prevention planning  
23 requirements of article 4 of this chapter shall collect and pay one-half of  
24 the prescribed fee for each ton of hazardous waste received. These reduced  
25 fees apply only if the person submits written certification of that  
26 compliance. This certificate of compliance shall be submitted with the  
27 manifest that accompanies the hazardous waste transported off site for  
28 disposal and shall accompany the copy of the manifest that is filed by the  
29 generator with the department.

30 B. Each operator or person who is required to pay a fee as prescribed  
31 by this section shall make the fee payment as determined by the department.

32 C. The department shall collect all fees due under this section and  
33 shall deposit, pursuant to sections 35-146 and 35-147, those fees in the  
34 hazardous waste management fund established in section 49-927. Each fee  
35 payment shall be accompanied by a form furnished by the department and  
36 completed by the operator or person. The form shall state the total volume  
37 or weight of hazardous waste generated or disposed at that facility during  
38 the payment period and shall provide any other information deemed necessary  
39 by the department. The operator or person shall sign the form.

40 D. If an operator or person fails to pay the fee prescribed by this  
41 section, the operator or person is additionally liable for interest on the  
42 unpaid amount at the rate prescribed by section 44-1201.

43 E. State agencies, including state universities, are not exempt from  
44 the fees prescribed by this section.

1 F. For THE purposes of this section:

2 1. "Generates" means the act or process of producing hazardous waste  
3 and includes importing hazardous waste into this state for disposal.

4 2. "Off site" means any transportation that is not on site as defined  
5 in section 49-851.

6 3. "Person" means an individual, trust, firm, joint stock company,  
7 corporation, including a government corporation, partnership, association,  
8 state, municipality, commission, political subdivision of this state,  
9 interstate body or federal facility.

10 Sec. 14. Department of environmental quality; continuing fee  
11 authority; retroactivity

12 A. Notwithstanding any other law, through June 30, 2012, the  
13 department of environmental quality has continuing fee authority to collect  
14 the following fees:

15 1. Except as provided in section 49-931, subsection A, paragraph 4,  
16 the following hazardous waste fees apply:

17 (a) A person who generates hazardous waste that is shipped off site  
18 shall pay seventy dollars for each ton of waste generated. Hazardous waste  
19 that is shipped off site to a facility that is in this state and that is  
20 owned or operated by the same person who generates the waste is exempt from  
21 the fees in this subdivision.

22 (b) An owner or operator of a facility that disposes of hazardous  
23 waste shall pay two hundred eighty dollars for each ton of waste disposed.  
24 Hazardous waste that is disposed at a facility that is owned or operated by  
25 the same person who generates the waste is exempt from the fee in this  
26 subdivision.

27 (c) A person who generates hazardous waste that is retained on site  
28 for disposal or that is shipped off site for disposal to a facility that is  
29 owned or operated by that generator shall pay twenty eight dollars for each  
30 ton of hazardous waste delivered to the disposal facility.

31 2. A fee of not more than five dollars per ton and not more than fifty  
32 thousand dollars per generator site per year for special waste that is  
33 transported to a facility in this state for treatment, storage or disposal.

34 3. For special waste that is shredder residue, the owner or operator  
35 of a special waste facility may pay a fee in the amount of one dollar  
36 sixty-five cents per cubic yard of uncompacted shredder residue or of three  
37 dollars seventy-five cents per cubic yard of compacted shredder residue  
38 received in lieu of the five dollars per ton prescribed in paragraph 2 of  
39 this subsection.

40 4. At the time of registration the owner of a solid waste landfill  
41 shall pay the following as an annual fee for each site registered:

42 (a) For solid waste landfills that serve fewer than ten thousand  
43 people, two thousand five hundred dollars.

1 (b) For solid waste landfills that serve at least ten thousand people  
2 but less than twenty-five thousand people, three thousand seven hundred fifty  
3 dollars.

4 (c) For solid waste landfills that serve at least twenty-five thousand  
5 people but less than fifty thousand people, five thousand dollars.

6 (d) For solid waste landfills that serve at least fifty thousand  
7 people but less than one hundred thousand people, ten thousand dollars.

8 (e) For solid waste landfills that serve at least one hundred thousand  
9 people but less than two hundred thousand people, fifteen thousand dollars.

10 (f) For solid waste landfills that serve two hundred thousand people  
11 or more, twenty-five thousand dollars.

12 (g) For solid waste landfills that are open to the public and that  
13 accept demolition waste, seven thousand five hundred dollars.

14 (h) For solid waste landfills that are closed to the public and that  
15 accept nonhazardous waste, seven thousand five hundred dollars.

16 B. Notwithstanding any other law, through June 30, 2012, in addition  
17 to the fees specified in subsection A of this section, the department of  
18 environmental quality has continuing fee authority to collect the fees that  
19 were in effect in fiscal year 2010-2011 for the following:

20 1. The review of solid waste facility plans for new solid waste  
21 facilities.

22 2. The review of modifications to solid waste facility plans.

23 3. The review of financial responsibility plans for solid waste  
24 facilities.

25 4. The hourly rate for the review of solid waste facility plans.

26 C. This section applies retroactively to from and after June 30, 2011.

APPROVED BY THE GOVERNOR APRIL 25, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 25, 2011.



Passed the House March 10, 2011

Passed the Senate April 19, 2011


by the following vote: 47 Ayes,

by the following vote: 16 Ayes,

13 Nays, 0 Not Voting

14 Nays, 0 Not Voting

  
Speaker of the House

  
President of the Senate

*Cheryl Laube*  
Chief Clerk of the House

*Susan Peabes*  
Assistant Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

**This Bill received by the Governor this**

day of \_\_\_\_\_, 20

at ~~o'clock~~ M.

**Secretary to the Governor**

Approved this \_\_\_\_\_ day of \_\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

**Governor of Arizona**

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

**This Bill received by the Secretary of State**

this                      day of                     , 20                    

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

**Secretary of State**

H.B. 2705

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

April 19, 2011,

by the following vote: 41 Ayes,

19 Nays, 0 Not Voting

[Signature]  
Speaker of the House

Cheryl Laube  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

20 day of April, 2011,

at 8:30 o'clock A.M.

[Signature]  
Secretary to the Governor

Approved this 25<sup>th</sup> day of

April, 2011,

at 12:16 o'clock P.M.

[Signature]  
Governor of Arizona

H.B. 2705

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 25<sup>th</sup> day of April, 2011,

at 2:45 o'clock [Signature] M.

[Signature]  
Secretary of State